

Message Text

LIMITED OFFICIAL USE

PAGE 01 NEW DE 11242 021637Z

43

ACTION EB-07

INFO OCT-01 NEA-10 ISO-00 COME-00 PA-01 PRS-01 USIA-06

CIAE-00 INR-07 NSAE-00 TRSE-00 STR-04 AID-05 FRB-03

XMB-02 OPIC-03 SP-02 CIEP-01 LAB-04 SIL-01 OMB-01

/059 W

----- 102668

R 021110Z AUG 76

FM AMEMBASSY NEW DELHI

TO SECSTATE WASHDC 7460

LIMITED OFFICIAL USE NEW DELHI 11242

FOLLOWING REPEAT BOMBAY 1969 SENT ACTION NEW DELHI
29 JUL 76.

QUOTE:

LIMITED OFFICIAL USE BOMBAY 1969

EO 11652: NA

TAGS: EINV

SUBJ: FOREIGN INVESTMENT - FERA ADMINISTRATION

1. THE NEW ADMINISTRATION OF THE INDO-AMERICAN CHAMBER OF COMMERCE GOT OFF TO AN EXCELLENT START IN WEST INDIA WITH A DAY-LONG SERIES OF EVENTS ON JULY 27, HIGHLIGHTED BY A MORNING WORKSHOP ON FERA (FOREIGN EXCHANGE REGULATION ACT). PHE EXECUTIVE DIRECTOR, J.C. LUTHER, THE FEATURED SPEAKER, GAVE A TOUGH BUT WELL BALANCED STATEMENT, OF FERA PURPOSES AND IMPLEMENTATION. HE FIRMLY RESTATED SOME PILLARS OF GOI INVESTMENT POLICY BUT AT SAME TIME PROMISED SYMPATHETIC, FLEXIBLE CONSIDERATION OF A NUMBER OF POINTS RAISED BY CHAMBER MEMBERS.

2. LUTHOR OPENED HIS SPEECH WITH THE STANDARD RESTATEMENT OF GOI'S POLICY ON FOREIGN INVESTMENT. HE EMPHASIZED THAT ANY SUCH
LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 02 NEW DE 11242 021637Z

INVESTMENT MUST CONFORM TO THE BASIC ECONOMIC POLICY OF THE GOI

AND WOULD BE WELCOME ONLY IN AREAS WHERE INDIGENOUS EFFORTS ARE NOT SUFFICIENT. IN THIS RESPECT RECEPTION OF FOREIGN INVESTMENT WOULD BE SELECTIVE BUT AREAS ARE WELL DEFINED AND CONDITIONS EXPLICITLY SET FORTH IN THE FERA AS MODIFIED BY RECENT CHANGES (APRIL 1976). THESE RELAXATIONS UNDERLINE GOI DETERMINATION TO ENCOURAGE FOREIGN INVESTMENT IN THOSE AREAS WHERE IT IS MOST NEEDED. LUTHER NOTED THAT PRACTICALLY ALL DEVELOPING COUNTRIES HAVE FOUND IT NECESSARY TO CONTROL FOREIGN INVESTMENT AND ADDED THAT OVER THE PAST TWO YEARS MANY DEVELOPED COUNTRIES HAVE ALSO BECOME APPREHENSIVE ABOUT SOME ACTIVITIES OF FOREIGN FIRMS. HE CITED THE EXAMPLE OF THE UNITED STATES WHICH HE TERMED AMONG THE MOST LIBERAL IN ITS TREATMENT OF FOREIGN INVESTMENT. HE SAID THAT MEASURES HAVE BEEN INTRODUCED IN THE US SENATE TO LIMIT THE INFLOW OF ARAB OIL MONEY. HE SAID THAT APPARENTLY THE US ADMINISTRATION WAS ABLE TO PERSUADE THE LEGISLATURE THAT TIGHT CONTROLS WERE NOT NECESSARY TO PROTECT ESSENTIAL US INTERESTS AND WOULD CERTAINLY BE HARMFUL IN ACCELERATING A WORLD-WIDE TREND TOWARD TIGHTER CONTROLS ON FOREIGN INVESTMENT.

3. STICKING TO THE FIRM LINE THAT CHARACTERIZED THE OPENING PART OF HIS SPEECH, LUTHER STATED CATEGORICALLY THAT THERE "WILL BE NO EXTENSION OF THE PERIOD WITHIN WHICH THE REQUIREMENT OF REDUCED FOREIGN EQUITY IS TO BE FULFILLED". UNDER THE FERA PROGRAM. AT THE SAME TIME HE CLAIMED THAT MOST COMPANIES ARE NOT HAVING ANY DIFFICULTY IN MEETING THE TIME REQUIREMENTS UNDER FERA. HE CITED STATISTICS OF COMPLIANCE WITH FERA TO SUPPORT HIS POINT. HE PRIVATELY TOLD THE CONSUL GENERAL THAT ANY GIVE ON THIS POINT WOULD OPEN A PANDORA'S BOX, CLAIMING THAT ONLY A FEW LARGE COMPANIES ARE HAVING TRUE DIFFICULTIES AND THEY MAY WELL BE USING DELAYING TACTICS IN COMING TO GRIPS WITH THE NEW REALITIES IN INDIA.

4. LUTHER ALSO DISCOURAGED PURSUIT OF ATTEMPTS TO INTRODUCE APPELLATE PROCEDURES INTO THE FERA PROCESS, SUGGESTING THAT ANY APPEALS BOARDS MAY WELL BE A BLESSING IN DISGUISE WHICH WOULD

SIMPLY LEAD TO MORE RIGIDITY ON THE PART OF BOTH THE FERA ADMINISTRATORS AND THE LARGE COMPANIES HAVING TO RE-ADJUST THE STRUCTURE OF THEIR OPERATIONS IN INDIA.
LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 03 NEW DE 11242 021637Z

5. LUTHER ALSO TURNED DOWN THE SUGGESTION OF A DIALOGUE BETWEEN FERA ADMINISTRATORS AND COMPANIES PROPOSING PROGRAMS UNDER THE FERA REGULATIONS. HE NOTED THAT THE LETTER OF INTENT PROCEDURES GIVES THESE FIRMS THIRTY DAYS TO COMMENT ON PROPOSED FERA DECISIONS. THE COMPANIES OF COURSE WANT THE DIALOGUE BEFORE THE FERA ADMINISTRATORS COMMIT THEIR DECISIONS TO WRITING.

6. RECOGNIZING THE STEAM BEHIND THE CALL FOR AN APPELLATE BOARD AND DIALOGUE, LUTHER SAID THAT HE WOULD BE PREPARED TO CONSIDER RECOMMENDING THE CREATION OF A SENIOR LEVEL MANAGERIAL CONSULTATIVE COMMITTEE TO ADVISE THE RESERVE BANK ON THE ADMINISTRATION OF FERA. THIS COMMITTEE WOULD BE COMPOSED OF GOVERNMENT, TRADE AND RESERVE BANK MEMBERS AND WOULD APPARENTLY CONCENTRATE ON GENERAL POLICY MATTERS RATHER THAN INDIVIDUAL COMPANY PROGRAMS OR CASES. THIS SUGGESTION WAS HEARTILY APPLAUDED AND LED LUTHER TO ISSUE A PRESS RELEASE AFTER THE SESSION HIGHLIGHTING HIS SUGGESTIONS FOR A COMMITTEE AND OUTLING OTHER SALIENT POINTS OF HIS SPEECH.

7. LUTHER ALSO WON ACCLAIM FOR HIS PROMISE OF FLEXIBILITY IN ADMINISTERING THE CRITERIA FOR QUALIFYING FOR 51 PERCENT FOREIGN EQUITY UNDER THE RELAXED FERA REGULATIONS. HE NOTED THAT THE FERA ADMINISTRATORS WOULD BE PARTICULARLY CAREFUL TO AVOID RIGID APPLICATION OF THE 10 PERCENT EXPORT CRITERION FOR QUALIFICATION FOR 51 PERCENT FOREIGN EQUITY AND HE ALSO SUGGESTED THAT THERE WOULD BE NO RIGID APPLICATION OF CRITERIA IN DETERMINING "HIGH TECHNOLOGY" QUALIFICATIONS.

8. LUTHER REFUSED TO ADMIT THAT THERE ARE ANY DIFFICULTIES IN THE LOCAL CAPITAL MARKET ABSORBING ADDITIONAL SHARES THAT WOULD FLOW TO THE MARKET BECAUSE OF DIVESTITURE UNDER FERA. HE INSISTED THAT THERE IS CLOSE COOPERATION BETWEEN THE CAPITAL MARKET CONTROLLER AND RBI OFFICIALS ADMINISTERING FERA. HE AGREED, HOWEVER, THAT THE RBI PEOPLE SHOULD BE WILLING TO GUIDE FIRMS GOING TO THE MARKETS WHO BELIEVE THEY HAD PROBLEMS IN SUCCESSFULLY REDUCING THEIR EQUITY.

9. COMMENT. ALTHOUGH LUTHER STOOD FORCEFULLY BEHIND THE GOVERNMENT'S FERA POLICY, HIS SPEECH WAS WELL RECEIVED AND CONSIDERED ENCOURAGING BY THE 150 PARTICIPANTS IN THE SEMINAR. THE AUDIENCE LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 04 NEW DE 11242 021637Z

WAS OF HIGH LEVEL INCLUDING TOP INDUSTRIALISTS, THE NEW PRESIDENT OF THE INDIAN MERCHANTS CHAMBER AND THE TWO LOCAL LAWYERS MOST INTIMATELY CONCERNED WITH FERA PROBLEMS OF LARGE CORPORATIONS. THE NEW PRESIDENT OF THE IACC, T.T.VASU GAVE A SHORT SHARP SPEECH POINTING UP MANY OF THE PROBLEMS PRIVATE COMPANIES FACE IN BRINGING THEMSELVES INTO CONFORMITY WITH FERA. THE CONVENER OF THE SEMINAR WORKSHOP, ROBERT BHootA WHO IS MANAGING DIRECTOR OF DORR-OLIVER, GAVE AN EQUALLY IMPRESSIVE INTRODUCTION. MOST PARTICIPANTS COMPLIMENTED THE QUALITY OF THE MEETING AND WERE PLEASED BY THE THRUST OF LUTHER'S SPEECH. MANY WENT OUT OF THEIR WAY TO CONGRATULATE LUTHER ON MOVING GOVERNMENT POLICY IN THE RIGHT DIRECTION SINCE HIS ADVENT TO THE RESERVE BANK. MANY PARTICIPANTS PRIVATELY INDICATED THEIR BELIEF THAT THE GOVERNMENT OF INDIA NOW HAS A POLICY THAT WOULD ALLOW IT TO COME TO TERMS WITH A WIDE RANGE OF FOREIGN INVESTORS. OF COURSE THERE REMAINS NO PLACE FOR

FOREIGN FIRMS INSISTING ON 100 PERCENT FOREIGN EQUITY AND ABSOLUTE CONTROL OF MANAGEMENT. BUT THERE IS CERTAINLY A BETTER ATMOSPHERE NOW FOR COMPANIES WILLING TO PERMIT SUBSTANTIAL INDIAN PARTICIPATION. THOSE COMPANIES HAVING HIGH TECHNOLOGY AND THOSE WILLING IN LUTHER'S PHRASE "TO BE PUSHED INTO SOME EXPORTS" NOW HAVE GOOD PROSPECTS OF MAINTAINING A MAJORITY CONTROL OF THEIR BUSINESSES.

10. LUTHER SPOKE WITHOUT TEXT BUT AS NOTED ABOVE, WROTE A PRESS RELEASE AFTER HIS SPEECH WHICH APPARENTLY REFLECTS THE THRUST HE IS TRYING TO ACHIEVE. THE ARTICLES ON PAGE 4 IN THE JULY 28 ECONOMIC TIMES OF INDIA WERE APPARENTLY WRITTEN BEFORE THE APPEARANCE OF LUTHER'S PRESS RELEASE AS THEY STRESS THE TOUGH INITIAL STAND HE TOOK ON REITERATING THE FOUNDATIONS OF FERA. HIS OWN PRESS RELEASE (POUCHED TO NEW DELHI) ON THE OTHER HAND LEADS OFF WITH A PAGE-LONG DESCRIPTION OF HIS PROPOSAL FOR A NEW CONSULTATIVE COMMITTEE AND THEN GOES ON TO THE MORE FLEXIBLE ASPECT OF THE RESERVE BANK'S CURRENT ADMINISTRATION OF FERA.

11. MANY OF THE PARTICIPANTS DEPARTED THE SEMINAR LUNCHEON EXPRESSING THE HOPE THAT LUTHER WILL BE NAMED TO THE RBI DEPUTY GOVERNOR POSITION OPENED ON JULY 26 BY THE RETIREMENT OF R.K. SESHADRI WHICH IS CERTAINLY THE MOST EFFECTIVE KIND OF ENDORSEMENT OF LUTHER'S WORK AT THE RESERVE BANK DURING THE PAST SIX MONTHS.

COURTNEY

LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 05 NEW DE 11242 021637Z

UNQUOTE.

SAXBE

LIMITED OFFICIAL USE

NNN

Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: INVESTMENT LAW, FOREIGN INVESTMENT, SEMINARS
Control Number: n/a
Copy: SINGLE
Draft Date: 02 AUG 1976
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: vogelfj
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1976NEWDE11242
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: D760297-0738
From: NEW DELHI
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1976/newtext/t19760894/aaaadext.tel
Line Count: 204
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION EB
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 4
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: n/a
Review Action: RELEASED, APPROVED
Review Authority: vogelfj
Review Comment: n/a
Review Content Flags:
Review Date: 08 JUN 2004
Review Event:
Review Exemptions: n/a
Review History: RELEASED <08 JUN 2004 by buchant0>; APPROVED <05 OCT 2004 by vogelfj>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
04 MAY 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: FOREIGN INVESTMENT - FERA ADMINISTRATION
TAGS: EINV, IN
To: STATE
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006